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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,658	06/11/2001	John Albert Hockman	01-015	3104

7590 10/03/2002  
Marvin J. Powell  
1 Highland Avenue  
Bethlehem, PA 18017

EXAMINER

DERRINGTON, JAMES H

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 10/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/878,658

Applicant(s)

HOCKMAN, JOHN ALBERT

Examiner

James Derrington

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17 2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application)  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mirkovich (AS) in view of Froberg et al (3,607,210).

Mirkovich discloses the process of substituting diopside,  $\text{CaMg}(\text{SiO}_3)_2$  for some of the materials used in the production of glass (page 1). This technique provides for a reduction in the heat requirement (page 5). Mirkovich also explains that the melting point of diopside is lower than the melting points of the ingredients that diopside would partially replace e.g. silica and carbonates (See page 6) and that typical glass fiber batches include boron oxide (See page 5). Froberg et al is relied on for the disclosure that molten glass gives off volatiles such as lead and boron alone or in the form of compounds and mixtures thereof (See Col. 1, line 40 ff). From this disclosure one of ordinary skill in the art would understand that the substitution of diopside for materials used in the production of glass as disclosed by Mirkovich would inherently reduce the production of volatiles because the heat requirements can be reduced since the melting point of diopside is lower as compared with silica and carbonates.

Currently, the claimed silicate compound appears to include the diopside of Mirkovich because the values of u, v and w can be zero

Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being obvious over Tomaino et al (6,211,103) in view of Froberg et al (3,607,210).

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The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(I)(1) and § 706.02(I)(2).

Tomaino et al disclose a synthetic silicate falling within the limitations of the formula recited in claim 1 (note instant example). The synthetic silicate has utility for producing glass with glass making material (See paragraph bridging Cols. 5 and 6). Froberg et al is relied on for the disclosure that molten glass gives off volatiles such as lead and boron alone or in the form of compounds and mixtures thereof (See Col. 1, line 40 ff). The use of the disclosed process of Tomaino et al would inherently result in a

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reduced volatiles as recited in the claims since the synthetic silica "enhances the melting process" (Col. 5, lines 55-56).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mirkovich (AS) or Tomaino et al (6,211,103) in view of Froberg et al (3,607,210) as applied to claims 1 and 3-5 above, and further in view of the Condensed Chemical Dictionary.

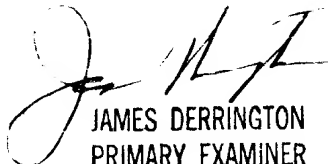
The Condensed Chemical Dictionary shows feldspar as a known and conventional additive for the production of glass. It would have been obvious to add feldspar to the instant glass batch for art recognized purposes.

The Mirkovich (AT) reference was indicated as being considered on the 1449 because a copy of this reference does not appear in the PTO file. Applicant is requested to supply a copy.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Derrington whose telephone number is 703 308-3832. The examiner can normally be reached on 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 703 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305-7718 for regular communications and 703 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0661

  
JAMES DERRINGTON  
PRIMARY EXAMINER  
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